TETRA TECH EC, INC.

DOCKET
11-AFC-3
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May 29, 2012

Siting Committee
Raoul Renaud, Hearing Officer
Eric Solorio, Project Manager
California Energy Commission
Docket No. 11-AFC-3
1516 9th St.
Sacramento, CA 95814

Cogentrix Quail Brush Generation Project - Docket Number 11-AFC-3, Initial Response to Dorian Houser's Intervenor Data Requests, 1 through 27

Docket Clerk:

Pursuant to the provisions of Title 20, California Code of Regulations, and on behalf of Quail Brush Genco, LLC, a wholly owned subsidiary of Cogentrix Energy, LLC, Tetra Tech hereby submits the Initial Response to Dorian Houser's Intervenor Data Requests, 1 through 27. The Quail Brush generation Project is a 100 megawatt natural gas fired electric generation peaking facility to be located in the City of San Diego, California.

The topics addressed in this letter include the following:

- Alternatives
- Air Quality
- Noise
- Biological Resources

If you have any questions regarding this submittal, please contact Rick Neff at (704) 525-3800 or me at (303) 980.3653.

Sincerely,

Constance E. Farmer
Project Manager/Tetra Tech

cc: Lori Ziebart, Cogentrix
John Collins, Cogentrix
Rick Neff, Cogentrix
Proof of Service List

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
FOR THE *QUAIL BRUSH GENERATION PROJECT*

DOCKET NO. 11-AFC-03

PROOF OF SERVICE
(Revised 5/14/2012)

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DECLARATION OF SERVICE

I, Constance Farmer, declare that on May 29, 2012, I served and filed a copy of the Quail Brush Generation Project (11-AFC-03) Initial Response to Dorian Houser's Intervenor Data Requests, 1 through 27. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: [http://www.energy.ca.gov/sitingcases/quailbrush/index.html].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner: ***(Check all that Apply)***

For service to all other parties:

☒ Served electronically to all e-mail addresses on the Proof of Service list;

☒ Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first- class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

☒ by sending an electronic copy to the e-mail address below (preferred method); ***OR***

☐ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512 docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

☐ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Constance C. Farmer

Quail Brush Genco, LLC

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May 29, 2012

Siting Committee
Raoul Renaud, Hearing Officer
Eric Solorio, Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

Re: Quail Brush Generation Project (11-AFC-03)
Initial Response to Dorian Houser's Intervenor Data Requests, 1 through 27

Dear Members of the Siting Committee and Mr. Solorio:

In response to the Dorian Houser's (Intervenor) Data Requests, 1 through 27, dated May 6, 2012 and pursuant to Section 1716(f) of the CEC's regulations, Quail Brush Generation Project (Quail Brush) objects to data requests 1, 2, 3, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23 and 27 and is unable to provide responses to data requests 21, 24, 25 and 26 at this time. Each of these Data Requests is itemized below along with a description of the grounds for the objection or the reasons for the inability to provide the information, as applicable.

1. Provide information on Alternative Sites. Quail Brush objects to this data request for information on alternative sites because it is not reasonably necessary for the CEC to render a decision on the AFC and it is not required under CEQA. Under CEQA and the CEC's regulations, a reasonable range of alternatives to the project, or to the location of the project that would feasibly attain most of the basic objectives but would avoid or substantially lessen any of the significant effects of the project must be evaluated. (Guidelines § 15126.6(a); see also CEC Regulations Appendix B(f)(1)). While a reasonable range of alternatives must include alternatives that feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects (Guidelines § 15126.6(b)), CEQA does not "expressly require a discussion of alternative project locations." *California Native Plant Society v. City of Santa Cruz*, 177 Cal. App. 4th 957, 993 (Ct. App. 2009) (citing *Mira Mar Mobile Community v. City of Oceanside*, 119 Cal. App. 4th 477, 491 (Ct. App. 2004)). "There is no rule requiring an EIR to explore off-site project alternatives in every case." *Id*. "An agency may evaluate on-site alternatives, off-site alternatives, or both." *Id*. Under CEQA, a lead

agency looks to the proposed project's particular objectives to develop the range of project alternatives. *Cal. Oak Found. V. Regents of Univ. of Cal.*, 188 Cal. App. 4th 227, 276-77 (Ct. App. 2010). "A lead agency may structure its environmental alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannon achieve that basic goal." *In re Bay-Delta Programmatic Env'l Impact Report Coordinated Proceedings*, 43 Cal. 4th 1143, 1166 (2008).

The Quail Brush AFC docketed August 25, 2011 identified the following project objectives which are related to the site location: "*Use a site located within SDG&E's service territory that has infrastructure with available capacity and ability to reliably support Project electric transmission, fuel supply, and water needs with minimal impact on existing infrastructure systems or required new construction*." (AFC 3-1). Although SDG&E's service territory is large, there are few available sites within this territory that are located within a reasonable proximity to required infrastructure. The proposed project site and the three alternative project sites analyzed in the Quail Brush AFC as well as Supplement 1 to the AFC docketed October 24, 2011 and Supplement 2 to the AFC docketed February 8, 2012 are less than two miles from the existing natural gas line and from the point of interconnection. The proposed project site is approximately 2,032 feet from the existing natural gas line and approximately 6,850 feet from the point of interconnection.

Quail Brush has been unable to identify any alternative sites within SDG&E's territory that are similarly situated in relation to the required infrastructure. The natural gas line which runs beneath Mast Boulevard is an existing SDG&E 20-inch diameter high pressure natural gas pipeline. A gas pipeline of this size is required to supply gas to the proposed power plant. Additionally, Quail Brush's proposed transmission interconnection would require minimal, if any, network upgrades to the SDG&E system. Installing a new major natural gas line or undertaking significant network upgrades that require additional infrastructure would likely *increase* environmental impacts. Network upgrades are also paid by ratepayers. To reduce environmental impacts and to ensure that the transmission costs to rate payers remains reasonable, Quail Brush appropriately focused on alternative site locations and points of interconnection that would not require the construction of significant new infrastructure.

With the implementation of mitigation, the proposed project does not result in any significant environmental effects. The lack of significant environmental effects necessarily narrows the range of available alternatives offering environmental advantages in comparison with the proposed project. *Mira Mar*, 119 Cal. App. 4th at 490. While there may be sites within SDG&E's territory that would lessen some of the proposed project's less than significant effects, they do not "avoid or substantially reduce" any significant effects. In fact, an alternative site that is located further from the necessary infrastructure may potentially have greater impacts than the proposed project resulting from the need to construct a longer gas pipeline and longer transmission line. Therefore, evaluating such an alternative is not necessary or warranted.

Quail Brush was unable to identify any locations currently zoned as industrial or having older facilities that could be upgraded, which would also meet the basic project objectives. Furthermore, the proposed project location and the analyzed alternatives are consistent with the City of San Diego General Plan, Economic Prosperity Element. While the General Plan states that industrial land use should make "efficient use of existing employment lands" (City of San Diego General Plan EP-5), the

intent of this goal appears to be the protection of "valuable employment land for base sector industries." (EP-7). The General Plan recognizes that there is a "shortage of available land within the City close to housing, transportation, public transit, and other infrastructure." (EP-5). Thus, the General Plan adopts a policy to "consider the redesignation of non-industrial properties to industrial use where land use conflicts can be minimized." (EP-10). In considering such redesignation, the General Plan calls for an evaluation of the proposed impacts of the designation and subsequent industrial development. Quail Brush has analyzed the impacts associated with the redesignation of the land use of the proposed project site and has determined that with appropriate mitigation measures, the impact of the project would be less than significant. As such, the proposed project is consistent with the General Plan and specifically with the goal to make "efficient use of existing employment lands."

Thus, the alternatives proposed and analyzed in the AFC are legally adequate to satisfy the requirements of the CEC regulations and CEQA. No further site location alternatives need to evaluated.

2. Collect air quality data within the City of Santee for use as baseline air quality data. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b) of the CEC's regulations. Ambient air quality data was collected from reports and databases compiled by the San Diego APCD, the California Air Resources Board, and the U.S. Environmental Protection Agency (EPA), for the Santee local and regional area. This data represented pollutant specific monitoring measurements as it relates to the specific state and/or federal standards for each pollutant. The data was collected for a number of sites in the regional area, including Kearny Mesa, El Cajon, Del Mar, Escondido, and downtown San Diego. Figure F.2-8 in Appendix F.2 of the AFC shows the spatial distribution of these monitoring sites, and Figures F.2-4a through F.2-4e show the seasonal and annual wind patterns. This data was presented in the AFC, and was recently updated with the addition of the calendar year 2011 data (as derived from the USEPA air quality database). The data for pollutants such as NO_2, CO, and SO_2 represent hourly values which cover all seasons of the year for the period 2009 through 2011. Data for PM_{10} and $PM_{2.5}$ represent 24 hour period measurements, taken at specified intervals, during all seasons of the year, over the period 2009 through 2011. The background values derived from this data are based on the currently accepted methods for data handling, and are based on the same statistics as the ambient standards. Data from Kearny Mesa (Overland Avenue monitoring site) was deemed as the most appropriate data for establishing the final background values, based upon a review of regional wind patterns, distances of the monitoring sites from the proposed plant site, surrounding land use, and a review of the monitoring site objectives and site classifications. See response to Data Request 3 below for a discussion of the topographical comparison of the project and Kearney Mesa. These background values, which represent regional conditions were used in the modeling impact analyses. Therefore, it is not necessary for Quail Brush to collect air quality data within the City of Santee in order to establish baseline air quality in the regional area of the proposed plant or to thoroughly evaluate the potential air quality impacts of the project

3. Collect wind speed and direction from the location of the proposed site. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). The San Diego

APCD and USEPA Region 9 have already determined that the three years of hourly meteorological data collected at the Overland Avenue Monitoring Station is considered representative of the area where the project impacts are expected to occur. Additionally, at the request of USEPA, two additional years of Kearny Mesa hourly meteorology will be added to the existing three-year data set to create a five-year meteorological file from which all impacts will be calculated. Additional monitoring at the site is not necessary or warranted.

The use of the SDAPCD-supplied surface meteorological data collected at the Kearny Mesa monitoring location would satisfy the USEPA definition of on-site data. USEPA defines the term "on-site data" to mean data that would be representative of atmospheric dispersion conditions at the source and at locations where the source may have a significant impact on air quality. For this project, the impact locations are regionally based. Specifically, the meteorological data requirement originates from the Clean Air Act in Section 165(e)(1), which requires an analysis "of the ambient air quality at the proposed site and in areas which may be affected by emissions from such facility for each pollutant subject to regulation under [the Act] which will be emitted from such facility." This requirement and USEPA's guidance on the use of on-site monitoring data are also outlined in the On-Site Meteorological Program Guidance for Regulatory Modeling Applications (USEPA, 1987). The representativeness of meteorological data is dependent upon: (a) the proximity of the meteorological monitoring site to the area under consideration; (b) the complexity of the topography of the area; (c) the exposure of the meteorological sensors; and (d) the period of time during which the data are collected.

First, the meteorological monitoring site and proposed project location are in close proximity (9.4 kilometers), at approximately the same elevation and with similar topography surrounding each location. Second, the Kearny Mesa monitoring site and proposed project location are located roughly about the same distance and in the same orientation to significant terrain features that might influence wind flow patterns. There are two small scale, localized terrain features near the proposed project site; Cowles and Fortuna Mountains, which extend approximately 700 feet in height above both the monitoring and project site base elevations. These terrain features are part of the same large scale terrain features in the area that are oriented in a northeast-southwest direction. Cowles and Fortuna Mountain are bisected with passes and canyons that run in the same northeast and southwest directions as the larger terrain features in the area. Based on the small size of the terrain, it is unlikely that either of these two features will influence the predominant meteorology in the project area. Third, as discussed below, the surface characteristics roughness length, Bowen ratio, and albedo are relatively consistent throughout the area and are nearly identical between the project site and the meteorological monitoring location.

Representativeness has also been defined in the document "Workshop on the Representativeness of Meteorological Observations" (Nappo et. al., 1982) as "the extent to which a set of measurements taken in a space-time domain reflects the actual conditions in the same or different space-time domain taken on a scale appropriate for a specific application." Judgments of representativeness should be made only when sites are climatologically similar, as is the case with the meteorological monitoring site and the proposed project location. In determining the representativeness of the meteorological data set for use in the dispersion models at the project site, the consideration of the correlation of terrain features to prevailing meteorological conditions, as discussed earlier, would be nearly identical to both locations since the orientation and aspect of terrain at the proposed project

location correlates well with the prevailing wind fields as measured by and contained in the meteorological dataset. In other words, the same mesoscale and localized geographic and topographic features that influence wind flow patterns at the meteorological monitoring site also influence the wind flow patterns at the proposed project site.

For these reasons as discussed above, the Kearny Mesa meteorological data selected for the proposed project satisfy the definition of representative meteorological data. Thus, it has been determined by the appropriate regulatory agencies that the Kearny Mesa meteorological data are representative of the dispersion conditions at the project site and to the surrounding regional area. .

6. Justification for the use of CTSCREEN over AERMOD. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). In addition, the background discussion and underlying premise of this request overstate the conclusion of the quoted portion of 40 CFR Part 51 and appear to misunderstand the bases that have been provided for the use of CTDMPLUS and CTSCREEN. As a result, the request is vague and overbroad. 40 CFR Part 51 does not conclude that AERMOD is the preferred approach in locations that are at or near complex terrain. To the contrary, the regulations specifically contemplate that in certain areas at or near complex terrain CTDMPLUS is the appropriate model.

As discussed in 40 CFR Part 51, *Revision to the Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions; Final Rule* (November 9, 2005), CTDMPLUS and CTSCREEN remain as the preferred models for use in complex terrain. As stated, CTSCREEN is actually a subset of CTDMPLUS modeling program with the only difference being that CTSCREEN incorporates worst-case synthetic meteorology whereas the regulatory application of CTDMPLUS requires the use of on-site meteorology collected in the area of study. When meteorological data are unavailable, CTSCREEN can be used to obtain conservative (safely above those of refined models), yet realistic, impact estimates for sources. These estimates can be used to provide conservative emission limit estimates for sources. As CTSCREEN is the screening version of CTDMPLUS, it currently remains as the preferred model for refined impact analyses in complex terrain. As a preferred EPA model, CTSCREEN can be used to obtain conservative, yet realistic worst-case impacts in areas of terrain. A more detailed explanation of the use of CTSCREEN is provided in response to Staff's Data Request #15 that was docketed on March 8, 2012.

In regards to the request for data resulting in a 4 to 5 fold reduction in PM10 and PM2.5, Quail Brush further objects that the request is vague and unreasonable. The CTSCREEN results are based on a more complete set of equations and methodologies that better describe terrain and plume interactions over those of AERMOD. The modeling results with CTSCREEN are smaller than those of AERMOD because CTSCREEN is considered a refined terrain model. For a complete set of the assumptions, methodologies and the equations used in CTSCREEN, the EPA has published several documents that describe the model.

8. Provide unweighted noise levels for previously reported noise maps, tables, and propagation modeling and extend the frequency range of analysis to 32 kHz. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably

necessary for the CEC to render a decision as required by Section 1716(b). The proposed project is not expected to be an emitter of appreciable sound energy above the 16 kHz frequency. Extending the frequency range of analysis to 32 kHz is therefore unnecessary. Furthermore, equipment vendor sound information is generally only provided 1/1 octave band center frequencies at best. Modeling to 1/3 octave band is not possible with the given data set. Further, this information is not reasonably available to the applicant; it is difficult to obtain this information because commercial sound testing equipment used to evaluate noise impacts on land does not provide data for that frequency. Additionally, the comparatively high air-absorption rates at these high frequencies (i.e., greater than 20 kHz) would effectively result in nominal sound received sound pressures, which are expected to be well below detection thresholds, at given receptor setback distances.

With regard to the request for unweighted noise levels, to compensate for the auditory frequency response of the human ear, an A-weighting filter is commonly used for describing environmental sound levels to determine impacts on humans. The CEC significance criteria are stated in terms of A-weighted decibels. Frequency response is unique from species to species. Unweighted noise levels alone would not provide information as to whether noises would affect a particular species. The noise level would have to be weighed for the species in question. The CEC does not have any significant criteria for different weightings of noise.

There are no listed threatened or endangered species in the project area. Further, no species with potential to occur in the area has been identified as being particularly susceptible to noise from the proposed project at a different frequency. In general, mitigation required by CEC, USFWS and CDFG is based upon A-weighted data and setting limits for construction and operational noise. The creation of unweighted sound plots (dBL) is therefore not reasonably necessary for the CEC to evaluate potential biological impacts associated with the project.

9. Identify impulsive sound sources and provide the unweighted peak or peak-peak sound pressure level as measured 1 m from the source. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). Impulse sound sources are identified in AFC Tables 4.3-5, 4.3-6, 4.3-7 and 4.3-8. These tables provide the equipment noise level (in dBA) at 15 meters (50 feet). As discussed above in response to Data Request 8, source and significance criteria are stated in A-weighted decibels, consistent with standard practice. Additionally, there are no observed or recorded occurrences of federally or state listed threatened or endangered species located within 50 feet of the proposed project site. Therefore, project construction related noise will not directly affect any federally or state listed species with respect to the installation of the proposed project. Construction related noise impacts and facility operating noises may directly impact a number of common wildlife species, however, impacts to common wildlife species is not considered a significant impact. Thus, the unweighted peak or peak-peak sound pressure level at 1 meter is not reasonably necessary for the CEC to make a determination.

10. Potential for flushing (birds) or site abandonment (all animals) as a function of distance from identified impulsive sources and mitigation measures to ensure impacts to species of concern observed near the project location are insignificant. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). There are no federally or state

threatened or endangered wildlife species that would be directly affected by flushing/abandonment. Mitigation for impacts associated with impacts to nesting birds protected under the Federal Migratory Bird Treaty Act has already been described (see mitigation measure BIO-5 in the AFC). Flushing/abandonment of common wildlife species is not considered a significant impact and therefore, further analysis is not necessary.

12. Noise mitigation measures as it relates to the reduction of operational noise impacts and mitigation for low frequency noise. Quail Brush objects to this request because adequate, proposed mitigation measures have already been provided in the AFC. Further specificity such as the degree of attenuation is not relevant to the proceeding and not reasonably necessary for the CEC to render a decision on the AFC. The AFC provides a discussion of the assumptions used in the acoustic modeling, including planned mitigation in Section 4.3.3.3 Operational Noise Impacts of the AFC. (AFC 4.3-14 to 4.3-18). Instead of proposing specific mitigation measures that set a precise degree of attenuation, the AFC includes performance standards that the final design of the project will be required to meet. (AFC 4.3-19). CEQA allows mitigation measures to incorporate performance standards that would mitigate the significant effect of the project, without specifying the way such mitigation must be accomplished. (CEQA Guidelines § 15126.4(a)(1)(B); see e.g. *California Native Plant Society v. City of Rancho Cordova*, 172 Cal. App. 4th 603, 621 (2009) (confirming that "when a public agency has evaluated the potentially significant impacts of a project and has identified measures that will mitigate those impacts, the agency does not have to commit to any particular mitigation measure in the EIR, as long as it commits to mitigating the significant impacts of the project"). For example, the operating components of the plant (the engines, pumps and fans) would be balanced and monitored by sensors, which are programmed to shut down the equipment automatically if the equipment is operating outside the tolerance levels. (AFC 4.3-18). With regards to low frequency noise, the AFC provides performance standards to ensure that prominent tones, including potentially problematic low frequency noise, are sufficiently attenuated. (AFC 4.3-19). In addition, the power generation components will be designed to not produce excessive levels of low frequency noise. (AFC 4.3-18).

13. Provide an analysis of the potential impact of sound exposure on threatened and endangered species in proximity of the proposed power plant. Quail Brush objects to this data request because it is not relevant to the proceeding and not reasonably necessary for the CEC to render a decision as there are no threatened and endangered wildlife species in proximity of the proposed power plant.

14. Provide stack sound power or source level as unweighted values and verify that all stacks operating simultaneously were modeled in noise models. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). As discussed in responses to Data Requests 8 and 9 above, the CEC and City of San Diego criteria for significant impacts are based on A-weighted decibels at the receiver locations. As previously explained, providing unweighted values is unnecessary. Quail Brush confirms that all previously docketed noise modeling analyzed all stacks operating simultaneously.

15. Provide additional information on the silencing system or data collected from other facilities with similar stacks and silencing systems. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding, that is not reasonably necessary for the CEC to

render a decision, and that is not reasonably available to the applicant as required by Section 1716(b). Section 4.3.3.3 in the AFC states that "stack sound power was estimated at 130 dBA based on data provided by the equipment manufacturer. The attenuation provided by the SCR system and an inline silencer specified for this application was estimated to reduce the sound power to 95 dBA." (AFC page 4.3-15 and 4.3-16). Quail Brush does not have access to any information on the silencing systems of facilities with the same engines as the proposed project. Additionally, as discussed in response to Data Request #12 above, the proposed project, which includes mitigation in the form of performance standards, will result in no significant noise impacts. Therefore, this additional information is irrelevant and not necessary for the CEC to render a decision.

16. Consistency with [Noise] LORS. Quail Brush objects to this data request's presumption that noise LORS are being ignored. The noise analysis in the AFC takes into account existing land uses and the zoning that will be in place when the project is constructed and operating. Because this data request seeks a justification for something that has not occurred, it is not relevant to these proceedings or necessary for the CEC to render a decision on the AFC.

For the analysis of noise impacts, the Commission regulations require that residences, hospitals, schools, places of worship, or other facilities where quiet is an important attribute of the environment be identified on a land use map and estimated noise levels at these locations must be provided. (CEC Regulations Appendix B(g)(4)(A) and (D)). These are existing sensitive receptors. Similarly, CEQA Appendix G (Environmental Checklist) requires that the following two questions must be asked in analyzing noise impacts:

- Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

- Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

The existing use of the property in the immediate vicinity of the proposed project site that are zoned residential (RS 1-8) is vacant open space. Therefore, the AFC statement that "numerical noise limits that apply in residential zones will not be applied to the undeveloped San Diego parcels" (AFC 4.3-5) is consistent with the CEQA and Commission requirements that existing land uses be taken into account in the noise analysis.

The City of San Diego provides a table of applicable sound level limits in its Noise Abatement Ordinance. (San Diego Municipal Code § 59.5.0401(a)). The applicable sound level limits are categorized by land use type. Under the San Diego General Plan, the proposed project site and the surrounding property are designated as either "Park, Open Space, & Recreation" or "Industrial Employment." (General Plan Figure LU-2 General Plan Land Use and Street System Map). The applicable sounds level limit for "Industrial or Agricultural" land use on the City's table of applicable limits is a one-hour average sound level of 75dBA. (§ 59.5.0401(a)). "Park, Open Space, & Recreation" is not included as a land use category on the table of applicable sound level limits and therefore does not have an applicable sound level limit. The noise level contemplated in the AFC and shown on Figure 4.3-5 (Received Sound Levels: Attenuated Project Operation) are consistent with the City's standards.

Even if the CEC regulations, CEQA and the City's Noise Abatement Ordinance intended noise analysis to be based upon actual zoning as opposed to existing land use, the proposed project will be consistent with all noise LORS. As discussed above, the City's table of applicable sound level limits in the Noise Abatement Ordinance apply to different land uses (§ 59.5.0401(a)), however, the Ordinance provides that an average sound level limit be applied between specified categories. (§ 59.5.0401(b)). Thus, the Ordinance contemplates a gradation between sound level limits. The proposed project contemplates a zone change that would change zoning of the project site from the RS 1-8 zoning to Industrial – Heavy (IH-2-1). (See AFC 4.2-21; San Diego Municipal Code § 131.0604). With this zone change and assuming that existing land use will not be considered, the City's Ordinance would allow for a gradation between sound level limits applicable to the proposed project's industrial zoning and the sound level limits applicable to single family residential zoning. (See § 59.5.0401(b)). The sound level for the attenuated project operation depicted on Figure 4.3-5 of the AFC shows the gradation of sound levels, which would be consistent with the intent of the City's Ordinance. More importantly, as stated in the AFC, plant noise will not exceed an absolute limit of 40 dBA nighttime/50 dBA daytime at any single family residential receptor location. (AFC 4.3-17, -18). This is consistent with the table of applicable sound level limits set forth in San Diego's Noise Abatement Ordinance. (San Diego Municipal Code § 59.5.0401). The 1,000 foot L_{eq} levels for construction provided in the AFC are well below the City of San Diego's 75dBA construction noise limit and also below the USEPA guideline levels for safety/hearing loss concerns applicable at publicly accessible areas. (AFC 4.3-10).

17. Collect additional noise data at previous receptor sites. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). In response to CEC Data Request 65, Quail Brush conducted a continuous ambient noise survey at locations ST-1 and ST-2 from 10:00 P.M. April 17th, 2012 through 6:00 A.M. April 18th, 2012. The survey results were included in the Data Request Responses to Set 3 for the Quail Brush Generation Project dated May 4, 2012 and docketed on May 4, 2012. These additional ambient noise surveys are sufficient for the CEC's analysis. CEC guidance does not specifically require weekend monitoring; noise monitoring protocol was approved by CEC prior to conducting the noise survey.

18. Construction noise modeling. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). Noise levels from facility construction are addressed in AFC section 4.3.3.2, Construction Noise Impacts. Table 4.3-5 of the AFC addresses representative maximum construction noise levels by construction phase. The construction noise analyses conservatively assume all construction equipment in a given construction phase operates simultaneously at 100 percent load usage ratings; however, all equipment is generally not operated continuously. Consistent with standard construction noise modeling methodology, these calculations assume that one piece of each type of construction equipment identified in the AFC would be operating at the same time.

19. Corrected Table 4.12-6. Quail Brush objects to this data request as being irrelevant as a corrected Table 4.12-6 was included in the Supplement to the AFC docketed October 24, 2011. Tables 4.12-5 and 4.12-6 have been updated to include an evaluation of all 167 sensitive plant and wildlife species and are included in Supplement to the AFC Attachment B, Biological Resources Table

1, Special Status Plant Species Table, and Table 2, Special Status Wildlife Species Table. As described in the Supplement to the AFC, San Diego barrel cactus, variegated dudleya, San Diego goldstar's, Coronado Island skink and white talked kite, are the only special status species located within the 1,000-foot linear buffer that may be potentially impacted by the proposed Project, and would not be cumulatively significant.

21. Suitability of the Quino checkerspot butterfly survey habitat. Quail Brush will be unable to provide this information on June 5, 2012. The suitability of the Quino checkerspot butterfly survey habitat will be addressed in the biological resources technical report, which is anticipated to be submitted at the end of June. As stated in the response to CEC Staff Data Request 29, the first Quino checkerspot butterfly survey began on February 23, 2012 and will continue for a minimum of 5 consecutive weeks, but may extend further if Quino checkerspot butterfly are still detected flying at nearby monitoring stations. As stated in the response to CEC Staff Data Request 30, a map or color aerial photographs depicting locations of any host plants, Quino checkerspot butterfly adults, and larvae found during surveys will be provided as part of the biological resources technical report.

22. Use of nearby creek beds as wildlife corridors during nighttime hours. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). The proposed Project is located in Little Spring Canyon. Spring Canyon and Oak Canyon are located to the west and Quail Canyon is located to the east. As stated in Section 4.12.2.9 of the AFC, the off-site undeveloped habitat located to the northwest and northeast of the project site may function to facilitate wildlife movement; however, no significant impact would affect the function of these areas as potential linkages or corridors. The distance of these potential linkages or corridors from the project as well as the terrain between Spring Canyon, Oak Canyon and Quail Canyon and the project site, minimize any potential indirect impact on the use of the wildlife corridors at any time of day.

As described in the AFC docketed on August 25, 2011, the gen tie line for the Project was sited to the north and west of the Project site and would have crossed Little Sycamore Canyon and the preliminary SDG&E switchyard was located near Spring Canyon. Supplement 2 to the AFC, docketed on February 8, 2012, included a description of the change in the Project Description resulting in the elimination of the SDG&E switchyard, and rerouting the gen tie to head from the Project site to the east to Carlton Hills Substation. There would be no direct or indirect impacts to Little Sycamore Canyon or Spring Canyon as the Project features would no longer be sited near these creek beds.

23. Noise emissions from structures potentially located next to Spring or Quail Canyon. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). As discussed in the response to Data Request 22 above, due to the change in project description there will be no direct or indirect impacts to Spring Canyon or Little Sycamore Canyon. Quail Canyon is located to the northeast of the Sycamore Landfill and would not be directly or indirectly impacted by the proposed Project as no structures were ever planned to be sited near Quail Canyon. As described in Section 4.3.3.2 of the AFC, as indicated by the composite L_{eq} noise levels at 1,000 feet, construction sound will be attenuated with increased distance from the source. The 1,000-foot L_{eq} values represent the magnitude of noise levels that are expected in the closest portion of the Mission Trails Regional Park to the actual Project site construction area. These 1,000-foot L_{eq} levels are all

well below City of Santee and City of San Diego 75 dBA construction noise limit and also below the USEPA guideline levels for safety/hearing loss concerns applicable at publicly accessible areas.

24. Anticipated impact to plant species in the vicinity of the power plant. Quail Brush will be unable to provide this analysis on June 5, 2012 as it will not have the necessary information until the nitrogen deposition study is complete. As stated in the response to CEC Staff Data Request 22, it was decided that an initial plot of project only deposition would be made that will be overlaid onto a geo-referenced map. The plot will show the general areal extent of the nitrogen deposition impacts and will include special status habitats that have been mapped as of the date of the data request. The plant site single source analysis was docketed with the CEC on April 13, 2012 in the *Cogentrix Quail Brush Generation Project - Docket Number 11-AFC-3, Data Request Responses to Set 1: Data Requests 22 through 24*. This plant site single source analysis will be used to provide mitigation strategies for any potential nitrogen deposition impacts in response to CEC Data Request 25, which Quail Brush anticipates docketing on June 30, 2012.

25. Analysis of the secondary impact to animal species likely to be impacted by nitrogen deposition. As stated in response to Data Request 24 above, Quail Brush will be unable to provide this analysis on June 5, 2012 as it will not have the necessary information until the nitrogen deposition study is complete.

26. Seasonal and spatial distribution of vernal pools within the area of anticipated elevated nitrogen deposition. As stated in responses to Data Requests 24 and 25 above, Quail Brush will be unable to provide this analysis on June 5, 2012 as it will not have the necessary information until the nitrogen deposition study is complete. However, based on the current site conditions, there are no vernal pools within the project site and immediate vicinity of the project area including the plant site, gen tie ROW and substation. Section 3.2.3 of Appendix H.2 of the AFC discusses the habitat types present in the biological survey area; vernal pools were not present within the biological survey area.

27. Conduct a population survey for the Coronado Island skink at the proposed project site and any region potentially impacted by construction during site development. Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding and that is not reasonably necessary for the CEC to render a decision as required by Section 1716(b). The Coronado Island skink is a California species of concern. Therefore, if the project had the potential to impact this species, it would need to be evaluated under CEQA. The potential for an impact to occur is evaluated on a species by species basis. In this case, only a single individual was observed in the project area over the two years of surveys. There is no standard protocol for this species and therefore there is no established survey window. As with most southern California reptiles, the activity period for this species is between February and October, with the peak activity period between May and July. Based upon our biologists' experience and knowledge of the Coronado Island skink, if they were in the area we would expect to see them in higher abundance. The estimated population density for this species within the proposed project site is less than five. Based on professional assessment and number of survey days completed, there is not a large enough population for there to be a significant impact, even if the population were effected by the project. Further, the avoidance and minimization measures included as part of the project design features will reduce any potential impacts to this species to less than significant. This species does not have any federal or state legal protection and it was not included in the MSHCP.

References

City of San Diego General Plan, Economic Prosperity Element and Figure LU-2 (General Plan Land Use and Street System Map), March 2008.

San Diego Municipal Code

Nappo et. al. Workshop on the Representativeness of Meteorological Observations, 1982.

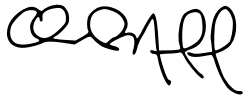
USEPA. On-Site Meteorological Program Guidance for Regulatory Modeling Applications, 1987.

40 CFR Part 51, *Revision to the Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions; Final Rule,* November 9, 2005.

Quail Brush will respond to the remainder of Dorian Houser's (Intervenor) Data Requests, 1 through 27, on June 5, 2012.

I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge

Regards,



C. Richard Neff
Vice President